

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE CONCURRENT RESOLUTION No. 125

STATE OF NEW JERSEY

DATED: SEPTEMBER 15, 2014

The Senate Environment and Energy Committee favorably reports Senate Concurrent Resolution No. 125.

This concurrent resolution declares that the Legislature has determined that the rules and regulations proposed in the New Jersey Register on July 7, 2014 by the Department of Environmental Protection repealing the regulatory scheme concerning the Regional Greenhouse Gas Initiative (RGGI) are not consistent with the intent of the Legislature as expressed through the enactment of P.L.2007, c.340 (C.26:2C-45 et seq.). The repeal of the rules, as proposed by the DEP on July 7, 2014, would contradict the legislative intent of section 3 of P.L.2007, c.340 (C.26:2C-47) specifically. This provision affirmatively mandated that the DEP promulgate rules and regulations to govern the State's participation in a greenhouse gas cap and trade program. Section 3 of P.L.2007, c.340 authorized, but did not require, the DEP to exercise this authority in cooperation and coordination with other states or countries that are participating in regional, national, or international carbon dioxide emissions trading programs. This affirmative statutory duty to promulgate such rules and regulations was not contingent upon the State's participation in a regional, national, or international program such as RGGI. Accordingly, section 3 of P.L.2007, c.340 did not explicitly or implicitly authorize the DEP to repeal these rules and regulations upon the State's withdrawal from RGGI. Contrary to the position taken in the summary of the proposal, the DEP remains obliged to establish rules and regulations pursuant to the legislative intent of section 3 of P.L.2007, c.340.

The Commissioner of Environmental Protection will have 30 days following transmittal of this concurrent resolution to amend or withdraw the proposed rules and regulations or the Legislature may, by passage of another concurrent resolution, exercise its authority under the Constitution to invalidate the rules and regulations in whole or in part, or prohibit the proposed rules and regulations, in whole or in part, from taking effect.